

# Notice of Allowability

Application No.

09/707,468

Examiner

Dave T. Nguyen

Applicant(s)

NICOLAIDES ET AL.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/13/2003.
2. ☒ The allowed claim(s) is/are 1,2,4,10,11,22,23,25,29 and 73-84.
3. ☒ The drawings filed on 11/13/03 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

**Examiner's Comments:**

Applicant's reply (dated November 17, 2003) to the *Ex parte Quayle* is acknowledged. The newly filed drawings filed November 17, 2003 also have been submitted and are accepted by the examiner for entry. The examiner notes that in applicant's reply, applicant indicates that figure 6 is attached to the drawings. However, Figure 6 is present neither in the newly filed drawings nor in the originally filed drawings nor in applicant's brief description. Thus, the reference to "figure 6" appears to be a typographical error, absent evidence to the contrary. The examiner also acknowledges that a reference to "the following examiner's amendment" in the examiner's the *Ex parte Quaye* is a typographical error, and thus, for the completeness of the record, there is no examiner's amendment prepared in the mailed Quaye's action. The examiner also notes that this application has been imaged, and that during the Imaging process, duplicated sets of claims and even the claim set (telefaxed August 25, 2003) have been entered as official papers. For the completeness of record, the examiner would like to acknowledge that the allowed claims 1,2, 4, 10-11, 22, 23, 25, 29, and 73-84 were based on the Supplemental Amendment and Request for Reconsideration dated August 26, 2003 (received by Tech Center 1600 on September 3, 2003, and referred in the imaged file incorrectly as September 26, 2003). In view of applicant's amendment to the claims, which clearly set forth that a dominant negative allele of a PMS2 is a truncation mutant of a PMS2, that the antibody producing cells are cultured or isolated cells, which are made by the claimed *in vitro* methods, the 112, first paragraph

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rejections, and the prior art rejections have been withdrawn by the examiner. Thus, claims 1, 2, 4, 10-11, 22, 23, 25, 29 and 73-84 remain allowable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Dave Nguyen* whose telephone number is **571-272-0731**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Amy Nelson*, may be reached at **571-272-0184**

Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 via the PTO Fax Center number, which is **703-872-9306**.

Any inquiry of a general nature or relating to the status of this application should be directed to the *Group receptionist* whose telephone number is **(703) 308-0196**.

Dave Nguyen  
Primary Examiner  
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